

EXHIBIT H

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Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Chapter 7 Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L. Madoff
Investment Securities LLC and the Chapter 7 Estate of
Bernard L. Madoff,

Plaintiff,

Adv. Pro. No. 10-04457 (CGM)

v.

EQUITY TRADING PORTFOLIO LIMITED,

Defendant.

**NOTICE OF DEPOSITION OF THE CORPORATE REPRESENTATIVE OF
DEFENDANT EQUITY TRADING PORTFOLIO LIMITED**

To:

Dechert LLP

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Attorney for Equity Trading Portfolio Limited

PLEASE TAKE NOTICE, that pursuant to Rule 30 and Rule 45 of the Federal Rules of Civil Procedure and Rule 7030 and Rule 9016 of the Federal Rules of Bankruptcy Procedure, Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”), under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”) and Bernard L. Madoff (“Madoff”), by and through his counsel Baker & Hostetler LLP, will take the deposition, upon oral examination, of the designated corporate representative(s) of Defendant Equity Trading Portfolio Limited (“Equity Trading”) before a notary public or other person authorized to administer oaths on the dates, at the times and at the locations listed below, or on such other dates and times as may be mutually agreed by counsel and subject to videotaping at the Trustee’s option.

September 25, 2023 at 10:00 a.m.

Baker & Hostetler, LLP
45 Rockefeller Plaza
New York, NY 10111

As required by Rule 30(b)(6), Equity Trading shall designate and produce one or more officers, directors, managing agents, or other persons who are most knowledgeable and prepared to testify on its behalf regarding the matters set forth in **Exhibit A** to this Notice.

Pursuant to Rule 30(b)(2), Equity Trading shall produce twenty-one (21) days prior to the Deposition documents responsive to the required Initial Disclosures pursuant to Rule 26(a), initially due on May 19, 2023, pursuant to which no documents have been produced to date.

The Trustee reserves the right to seek relief from the Court in the event that the designated deponent is not properly prepared to testify on behalf of Equity Trading with respect to each of the identified topics.

Date: August 21, 2023
New York, New York

/s/ Amos Kim
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EXHIBIT A

Topics on which the designated corporate representative(s) should have knowledge sufficient to testify include:

1. Equity Trading's record retention practices for the period between November 30, 2005 and December 31, 2010, including:
 - a. Equity Trading's record retention policies;
 - b. Equity Trading's record retention schedules;
 - c. Equity Trading's records retention obligations under applicable laws or regulations.
 - d. Policies and practices governing disposition of paper and electronic records for departed employees; and
 - e. Compliance procedures and practices related to the policies described above.
2. Equity Trading's filing and storage systems for both paper and electronic documents for the period between November 30, 2005 and December 31, 2010, including:
 - a. How and where electronic documents were maintained and stored for individual custodians during Equity Trading's normal course of business, including its email system(s), local area networks (LANs), servers, databases, cloud-based systems, hard drives, desktops, laptops, external media, data storage devices and electronic backup systems, and mobile devices;
 - b. Equity Trading's system(s), servers, databases or cloud-based storage systems used for purposes of creating, transmitting, storing, backing up, retrieving, archiving, and deleting e-mail and/or electronic records, including but not limited to, the name and version, installation dates, number of users, and location of users' mail files;
 - c. Any instances of data migrations, data purges, or loss of electronically stored information;
 - d. The system(s) used for storing, cataloging, and maintaining hard copy records, including filing systems and offsite storage of such records and the document management protocols for same, including the protocols for retrieving, inventorying, and assigning projected destruction dates of records before they are sent to off-site storage facilities and during the storage period; and
 - e. The identity, functions and responsibilities of any third-party vendors retained to assist with any aspect of Equity Trading's document management or information technology needs.

3. Efforts undertaken by Equity Trading to preserve potentially relevant documents between December 8, 2008 to the present in connection potential litigation related to BLMIS¹ or BNP Paribas², including:
 - a. The manner in which potentially relevant custodians and categories of documents were identified;
 - b. The issuance of any litigation hold notices, including the date(s) issued, identification of the senders and recipients, whether any follow-up was conducted, and date(s) any such holds were lifted with respect to any custodian or category of documents;
 - c. All steps taken by Equity Trading to suspect the automatic deletion or destruction of potentially relevant documents, including but not limited to whether potentially relevant electronically stored information was imaged, the manner in which devices used by potentially relevant custodians was preserved, and any actions taken to preserve documents for departing potentially relevant custodians.
4. Efforts undertaken by Equity Trading to protect and preserve documents, data records, e-mails or any other electronically stored information related to this Adversary Proceeding from November 30, 2010 to the date of this deposition, including:
 - a. The steps taken by Equity Trading to suspend its current document retention policies with respect to this Adversary Proceeding;
 - b. The steps taken by Equity Trading to assure that routine purging of documents and information was suspended with respect to this Adversary Proceeding;
 - c. Equity Trading's procedure for identifying custodians of documents and information that could be relevant to this Adversary Proceeding;
 - d. Equity Trading's procedure for selecting the categories and types of documents and information that could be relevant to this Adversary Proceeding;
 - e. Equity Trading's procedure for securing and preserving documents that would be relevant to this Adversary Proceeding;

¹ "BLMIS" means Bernard L. Madoff Investment Securities LLC, Madoff Securities International Ltd., Madoff Securities International LLC, Bernard L. Madoff, Ruth Madoff, and all affiliated persons and entities, including, but not limited to, any officers, directors, agents, representatives, employees, partners, parent companies, subsidiaries, predecessor or successor and related entities, and affiliates of the above specifically identified persons and entities.

² "BNP Paribas" means BNP Paribas S.A. and any of its subsidiaries, divisions, related entities, and affiliates, including without limitation, BGL BNP Paribas S.A., individually and as successor in interest to BNP Paribas Luxembourg S.A., BNP Paribas Arbitrage SNC, BNP Paribas Bank & Trust Cayman Limited, BNP Paribas S.A., as successor in interest to BNP Paribas Securities Services S.C.A. and BNP Paribas Securities Services – Succursale de Luxembourg, and BNP Paribas (Suisse) S.A., individually and as successor in interest to BNP Paribas Private Bank (Switzerland) S.A. and as successor in interest to United European Bank, and any of their officers, directors, agents, representatives, employees, managers, partners, shareholders, members, parent companies, principals, subsidiaries, divisions, branches, attorneys, predecessor or successor and related entities, nominees, servants, and affiliates.

- f. If the individual hard drives of the custodians identified in paragraph 5(c)(iii), or other LANs, servers, or cloud-based systems were imaged and preserved;
- g. What efforts did Equity Trading take to secure and preserve documents, data records, e-mails or any other electronically stored information related to this Adversary Proceeding, including documents related to third-parties, including but not limited to, BLMIS, Citco,³ BNP Paribas New York,⁴ and BNP Paribas:
 - i. When were such efforts made;
 - ii. Why were such efforts made;
 - iii. Who directed documents and information be preserved;
 - iv. How were the directives communicated to the custodians of such records;
 - v. Who protected and secured the documents and information;
 - vi. Where were the documents and information stored;
 - vii. What media or system was used to store information; and
 - viii. How were the documents and information stored;
- h. What databases, data servers, data storage devices or systems were backed-up from November 30, 2010 to the date of this deposition related to this Adversary Proceeding, including documents, data records, e-mails or any other electronically stored information related to BLMIS, BNP Paribas, or Citco, and the media used to store the backed-up data; and
- i. Equity Trading's document hold notices from November 30, 2010 to the date of this deposition related to this Adversary Proceeding, including:
 - i. What entities or individuals did Equity Trading send document hold notices to;
 - ii. When were such notices sent;
 - iii. Who sent the notices;
 - iv. Nonprivileged communications with counsel or from counsel to third-party records custodians about the obligation to preserve documents and information; and
 - 1. If any of the internal or third-party document hold directives were lifted, and, if so, when, why and how was that done.

³ "Citco" means Citco Global Custody NV and/or Citco Fund Services (Europe) B.V., and any person acting on behalf of Citco Global Custody NV or Citco Fund Services (Europe) B.V.

⁴ "BNP Paribas New York" refers to BNP Paribas New York bank through which BNP Paribas held account number xxxxx7689.

5. The forensic tools used by Equity Trading to collect the electronic documents, e-mails or any other electronically stored information, including the steps taken to assure the integrity of the documents and the metadata related to such documents.

Equity Trading's efforts since the meet-and-confer held on July 5, 2023 to access Equity Trading's documents and information and to locate witnesses identified by Equity Trading and the Trustee.